

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the September 13, 2006  
Board of Review Meeting

**Date:** September 15, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, September 13, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, September 20, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the September 6, 2006 meeting were approved, except that in item (c) under New Business, Mr. Maddow will prepare a decision, not a remand.

3. New Business

(a) 114,955

Ms. Futterman presented this case that involved as claimant who was held entitled to State Plan disability benefits. The claimant was subjected to an Independent Medical Examination (IME) on March 20, 2006, which determined the claimant was able to work as of that date. The Appeal Tribunal had held the claimant ineligible for Stated Plan disability benefits as of March 20, 2006. The Board noted that the record was lacking

regarding the claimant's job duties. As a result, the Board voted to remand the case for additional testimony regarding the claimant's job duties as well as to allow the claimant to present any additional medical documentation. Ms. Futterman will prepare the remand.

(b) 113,011

Mr. Gitter described this case that involved a claimant who was discharged for viewing female students in various stages of undress in a locker room. The claimant was charged, but entered a Pre-Trial Intervention (PTI) program. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(b), as his discharge was for gross misconduct connected with the work based on his participation in the PTI program. The Board noted that the claimant admitted viewing the students and voted to affirm the Appeal Tribunal because of the admission, with the additional sentence that participation in the PTI is not proof of the crime. Mr. Gitter will prepare the decision.

(c) 97,267

As presented by Mr. Gitter, this case involved a claimant who left work because she was dissatisfied with working conditions. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the Appeal Tribunal did not allow an employer and claimant witness to testify. Also, the record was lacking testimony regarding the claimant's most recent employment. As a result, the Board voted to remand the case for additional testimony from the witnesses as well as testimony regarding the claimant's most recent employment. Mr. Gitter will prepare the remand.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

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Gerald Yarbrough  
Executive Secretary

GY:gs

